UW-Madison Emotional Support Animal Policy

Policy Summary
The University of Wisconsin-Madison (UW-Madison) recognizes the category of “Assistance Animals” under the Fair Housing Act (FHAct, 42 U.S.C.A. s. 3601 et seq.) and permitted in a university dwelling; and Emotional Support Animals (ESA) as a specific disability–related accommodation under Section 504 of the Rehabilitation Act (1973), as amended, 29 U.S.C.A. s. 794 and permitted in campus locations other than a university dwelling. Assistance Animals and ESAs (henceforth referred to collectively as Emotional Support Animals or ESAs) alleviate one or more identified symptoms or effects of a person’s disability, enabling the person to live more successfully in a University dwelling or participate in a university program, service or activity as required by law. This policy outlines the process for requesting approval of an ESA in a university dwelling.

Who This Policy Applies To
This policy applies to students, employees, visitors, or guests of the University of Wisconsin-Madison requesting an ESA on campus.

This policy does not impose any limitations on “service animals” as defined by the federal regulations implementing the Americans with Disabilities Act, 28 C.F.R. s. 35.104, the Wisconsin Open Housing Law, Wis. Stats. s. 106.50 or the Wisconsin Public Accommodations Law, Wis. Stats. s. 106.52, or on “service animals in training” protected under Wis. Stats.s. 106.52. For information about the rights of individuals who utilize service animals or service animals in training, see the UW-Madison Service Animal Policy

Rationale
This policy assures compliance with the Fair Housing Act, 42 U.S.C.A. 3601 et seq. and Section 504 of the Rehabilitation Act (1973), as amended, 29 U.S.C.A. s. 794, which prohibits discrimination on the basis of disability in a university program, service, activity or dwelling.

Policy Detail
The approval of an ESA, either in a university dwelling or as an academic or employment accommodation, including an assessment of the particular animal requested as an ESA, is
determined on a case-by-case basis through an interactive process involving the individual requesting the accommodation and the relevant campus authority. Unless expressly authorized by the appropriate campus authority, an ESA is not permitted in any University buildings or outdoor spaces except as permitted under Wisconsin Administrative Code (UWS) s. 18.08, Personal Conduct Prohibitions.

The interactive process ensures the animal specifically requested as an ESA:

1. is necessary to provide an individual with a disability an equal opportunity to use and enjoy a campus dwelling or participate in a university program, service or activity; and
2. will not fundamentally alter a University program, service or activity, pose an undue financial and/or administrative hardship, or pose a direct threat to the health or safety of other individuals.

The owner of the ESA is responsible for any damage to property (University property or property of other individuals) or personal injury caused by the ESA.

The owner of the ESA is responsible for providing assurance of vaccines or a certification from a veterinary that the animal is in good health.

The University reserves the right to assess the impact of an ESA on other campus residents, patrons, or programs. The approval for an ESA may be revoked if the condition of the campus environment changes such that the presence of an ESA fundamentally alters or creates an undue burden to the program, activity or service.

**ESA in a University Dwelling:** UW-Madison will accept and consider a request for an ESA at any time, however; an individual making a request for an ESA for a university dwelling should complete the process with the appropriate campus resource as soon as possible **prior to moving into a university dwelling.** UW-Madison cannot guarantee it will be able to meet the ESA request during the first semester of the term of occupancy for ESA requests made fewer than 60 days before the individual intends to move into a university dwelling.

If the need for an ESA arises when the individual already resides in a university dwelling, UW-Madison will work with the individual but cannot guarantee that the ESA request can be met during the semester in which the request is received.

An ESA may be brought into a university dwelling after the completion of the interactive process recommending the ESA as a reasonable accommodation, and the completion of contractual steps with the applicable university dwelling. As part of the ESA approval process, a housing representative will liaise with appropriate campus authority (i.e., McBurney Disability Resource Center, Employee Disability Resources Office/DDR, or the ADA Coordinator in the
Office of Compliance). The campus authority will provide the housing representative with the following information:

1. Whether the ESA accommodation is approved, and
2. ESA species and any other relevant information (e.g., age, weight, height, housebroken status, venomous or non-venomous, etc.)

An ESA is the sole responsibility of the owner who agrees that the ESA will be well cared for at all times. Under this agreement, an ESA may not be left alone or in the care of others overnight in a university dwelling.

An ESA must be under the control of the owner at all times and must be properly contained or restrained when the owner is not present during the day.

An ESA is only allowed in a university dwelling for as long as the owner has a disability-related need for the animal. Owners are required to notify the university if the animal is no longer necessary or no longer in residence.

**ESA as an Academic or Employment Accommodation:** An individual making a request for an ESA as a reasonable accommodation under Section 504 of the Rehabilitation Act should follow the accommodation request process through the appropriate campus authority. Students and prospective students work with the McBurney Disability Resource Center. Employees work with their Divisional Disability Representative (DDR) who will consult with the Employee Disability Resources Office.

An ESA may be brought into an academic or employment setting only after the completion of the interactive process recommending the ESA as a reasonable accommodation with the appropriate campus authority (i.e., McBurney Disability Resource Center, Employee Disability Resources Office/DDR, or the ADA Coordinator in the Office of Compliance). The campus authority will determine:

1. Whether the ESA accommodation is approved, and
2. Document the ESA species and any other relevant information (e.g., age, weight, height, housebroken status, venomous or non-venomous, etc.)

An ESA is the sole responsibility of the owner who agrees that the ESA will be well cared for at all times. Under this agreement, an ESA may not be left alone or in the care of others in the employment or academic setting.

An ESA must be under the control of the owner at all times and must be properly contained or restrained when the owner is temporarily not present in the employment or academic setting.
An ESA is only allowed as an employment or academic accommodation for as long as the owner has a disability-related need for the animal. Owners are required to notify the appropriate university representative if the animal is no longer needed.

**Policy Exceptions**

An ESA may be asked to leave a UW–Madison facility, program, or dwelling if the animal's behavior or presence is unduly disruptive or poses a direct threat to the health or safety of others (e.g., displays vicious or aggressive behavior towards people or other animals), or causes substantial damage to the property of other individuals or the University.

An ESA may also be excluded in areas where the presence of an ESA fundamentally alters the nature of a program or activity. Examples may include, but are not limited to, research labs, areas requiring protective clothing, food preparation areas or other sterile environments, and primate labs or other research facilities where animals are present.

Many exotic, wild, and agricultural animals are likely inappropriate as an ESA. Nothing in this policy overrides federal, state, or local law restricting the possession of such animals.

**Consequences for Non-Compliance**

Non-compliance with the FHAct may result in monetary damages and additional fines. Non-compliance with Section 504 of the Rehabilitation Act (1973), as amended, 29 U.S.C.A. s. 794 may result in loss of federal funding as determined by the U.S. Department of Education’s Office for Civil Rights.

**Supporting Tools**

**ESA Request Form:**  https://uwmadison.app.box.com/s/ojyrt7evl28w3s1cg4dg0rrpk63gdh53

**Definitions**

**Campus Disability Authority:** The following campus entities have authority to verify disability status and determine reasonable accommodations for individuals with disabilities:

- McBurney Disability Resource Center for students and prospective students;
- Divisional Disability Representative in consultation with the Employee Disability Resources Office for employees or prospective employees,
- ADA Coordinator for visitors and guests.

**Disability:** A disability is defined under Section 504 of the Rehabilitation Act (1973) and the Americans with Disabilities Amended Act (2008) as a physical or mental impairment that substantially limits one or more major life activities. Major life activities may include seeing,
hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working, among others.

Dwelling: FHA defines a dwelling as, “any building, structure, or portion thereof, which is occupied as, or designed or intended for occupancy as, a residence by one or more families.” This includes any housing unit available and controlled by the UW—Madison, whether on campus or located at a remote site whether controlled by the Division of University Housing or another Division, College or School.

Emotional Support Animal (ESA): An ESA is defined as an animal that alleviates one or more identified symptoms or effects of a person’s disability. An emotional support animal is recognized as a reasonable accommodation for a person with a disability under the federal Fair Housing Act (FHA, 42 U.S.C.A. 3601 et seq.) and may be a reasonable accommodation under Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C.A. s.794.

An ESA, also referred to as an “assistance” animal, is not a pet according to the U.S. Department of Housing and Urban Development (HUD); however, no special training is required for an animal to be considered an ESA.

Responsibilities
The following entities have responsibility for ensuring compliance with the Fair Housing Act as it pertains to individuals with disabilities and Section 504 of the Rehabilitation Act:

- McBurney Disability Resource Center for students and prospective students;
- Divisional Disability Representatives in consultation with the Employee Disability Resources Office for employees or prospective employees;
- ADA Coordinator for visitors and guests.

Appeal Rights: Any person dissatisfied with a decision concerning an ESA can contact the UW–Madison ADA Coordinator regarding appeal procedures.

Requirements for ESAs
UW–Madison requires individuals utilizing an ESA on campus to adhere to the following City of Madison ordinances.

- Vaccination: Animals must be immunized against diseases common to that type of animal. All vaccinations must be current.
- Licensing: All dogs must be licensed by the time they reach 5 months of age.
- Owner ID and Other Tags: The City of Madison requires dogs to wear an owner identification tag at all times [M.G.O. 23.33(6) (a)]. The dog must also wear a current rabies tag [M.G.O. 23.39(3)] and dog license tag [M.G.O.23.33 (6)(c)].
- Leash: Dogs must be on a leash, harness or tether at all times, unless impracticable or unfeasible due to owner/handler’s disability [M.G.O.23.32].
• Under Control: The owner/handler of an ESA must be in full control of the animal at all times. The care and supervision of the animal is solely the responsibility of owner/keeper.
• Health: ESAs residing in a university controlled housing unit must have an annual clean bill of health from a licensed veterinarian.

**Link to Current Policy**

**Link to Related Policies**
UW–Madison Service Animal Policy
UWS 18.08 Conduct on University Lands: Personal Conduct Prohibitions

**Link to Policy History**
Policy originally created May 2017 specific to University Housing. Revision date January 2020. For previous versions contact the ADA Coordinator at ada_coordinator@wisc.edu